



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,269	08/13/2001	David B. Flaxer	YOR920010030US1	5306

30743 7590 02/08/2005

WHITHAM, CURTIS & CHRISTOFFERSON, P.C.
11491 SUNSET HILLS ROAD
SUITE 340
RESTON, VA 20190

EXAMINER

RHODE JR, ROBERT E

ART UNIT	PAPER NUMBER
----------	--------------

3625

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/927,269

Applicant(s)

FLAXER ET AL.

Examiner

Rob Rhode

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant amendment of 12-13-04 traversed rejections of Claims 1 - 10.

Currently, claims 1- 10 are pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In the instant case, the word "processing" is so broad and is not defined by the claim(s), the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably appraised of the scope of the invention. For examination purposes, "processing" can and was interpreted as sorting into virtual entitled groups/stores by the method and the virtual entitled groups can have special discount pricing as well as providing processing of each entitled group by the back-end fulfillment systems. Moreover, the phrase "without distinction" is so broad and is not defined by the claim(s), the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably appraised of the scope of the invention. For examination purposes, the phrase was interpreted as processing the

different virtual groups/stores by the backend end fulfillment systems and ensuring that the appropriate business reasons/rules for each store are separately and appropriately applied.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The invention as in claim 1 lacks patentable utility. For example, the claim is required to have useful, tangible and concrete results. As currently phrased, the claim has no results from the "processing" to do anything other process, where normally processing is done to accomplish a result - such as to complete an order.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 – 10 are rejected under 35 U.S.C. 102(e) as being unpatentable over Henson (US 6,167,383).

Regarding claim 1 and related claims 2 and 4, Henson teaches a method of supporting customizable a solution bundles for e-commerce applications comprising the steps of -

providing a bundle definition process, where a solution bundle is created and loaded into the various components that support an e-commerce application, including the front-end and back-end application fulfillment systems (see at least Abstract and Figure 1); mapping customizable solution bundles into a virtual entitled group and processing the virtual entitled group, without distinction with other entitled groups, by back-end fulfillment systems and ancillary e-commerce services (see at least Col 2, lines 61 – 65, Col 3, lines 36 – 41 and Figure 8); providing a user interface as a component of the e-commerce front-end application, which presents a solution bundle configuration to the user and manages an order selection based on established bundle rules (see at least Figures 3A & B); providing an order process, whereby the e-commerce application passes the solution bundle order to the back-end application fulfillment systems for completion (see at least Figures 6 – 10); and recognizing a unique distinguished identifier, for each marketable item in an order that allows the front-end, back-end fulfillment and ancillary service components to associate an item to a given bundle, thereby resolving characteristics, including an incentive price of the item (see at least Col 14, lines 35 – 43 and Col 15, lines 46 – 50) . Please note that Henson does not specifically disclose incentive price. However, Henson does disclose the capability to emulate a sales rep who has been called by the customer. In this regard, it was old and well known (see Bennett, Para 0128) that a sales rep would apply incentives such as price where appropriate. Therefore, it would have been obvious to have provided the method of Henson with appropriate incentive prices as determined by the sales and marketing staff in order to incentivize customer to buy more of a product, which for

example is currently in excess. Indeed, the incorporation of off line sales/incentive techniques in the online ecommerce site will increase customer satisfaction. The increased customer satisfaction will increase the probability that the customer will return for future needs fulfillment as well as recommending the site to others.

Regarding claim 3 and related claim 5, Henson teaches a method of supporting customizable a solution bundles for e-commerce applications, wherein a customizable solution bundle is mapped into a subset catalog of the master catalog containing preselected marketable elements that represents a potential set of products that a marketing organization determines what is suitable for a class of customer based on experience gained by marketing teams for that industry (Abstract and Figure 8).

Regarding claim 6, Henson teaches a method of supporting customizable a solution bundles for e-commerce applications, further comprising the step of recommending products and guiding the customer through a solution, whereby the customer is allowed to select marketable items from the subset catalog in which to customize their solution (Abstract, Col 2, lines 61 - 67 and Figures 3A – 10).

Regarding claim 7, Henson teaches a method of supporting customizable a solution bundles for e-commerce applications, wherein solution bundles are tailored to specific industries or classifications of customers, whereby many solution bundles may be defined by a given vendor (Abstract, Col 3, lines 1 – 11 and Figures 8).

Regarding claim 8, Henson teaches a method of supporting customizable a solution bundles for e-commerce applications, wherein the solution bundle is dedicated to a specific industry or class of customer (Figure 8).

Regarding claim 9, Henson teaches a method of supporting customizable a solution bundles for e-commerce applications, wherein a solution bundle which, when selected by the customer, results in a pricing discount (Col 14, lines 35 - 45).

Regarding claim 10, Henson teaches a method of supporting customizable a solution bundles for e-commerce applications, wherein a variety of differing pricing discounts are applied against individual marketable elements or on the entire solution bundle as a whole, depending on rules applied, the application of a pricing discount being dependent on a selection the customer chooses at the time they are customizing their solution (Col 10, lines 49 – 67 and Col 5, lines 1 – 11).

Response to Arguments

Applicant's arguments filed 12/21/2005 have been fully considered but they are not persuasive.

Applicant argues that Henson does not teach allowing, "customized solution bundles" to be mapped into all membership groups and thereby the reference does not meet the definition "customized solution bundles" as defined by the specification.

First, the applicant has arbitrarily selected a section from the specification, which purportedly defines "customized solution bundles". However, the specification also defines and clearly states at page 5, lines 16 – 20, "The definition of a customizable solution bundle contains several components: (1) a subset of master catalog; (2) incentive price discounts; (3) a specification of rules which determines pricing and customization validity of a bundle. (4) the specification of rules and/or content to assist the customer in customized selection of items in their bundle." In that regard and in keeping with this definition, Henson would fairly suggest and teach one of ordinary skill in the art that it does have a (1) a subset of master catalog, which are customized store fronts with offerings tailored to the customer set such as Education and Government (see at least Abstract, Col 3, lines 36 – 41 and Col 13, lines 30 – 37); (2) incentive price discounts (see at least Col 14, lines 35 – 43); (3) a specification of rules which determines pricing and customization validity of a bundle (see at least Col 11, lines 5 – 9 and Col 14, lines 35 - 43). (4) the specification of rules and/or content to assist the customer in customized selection of items in their bundle (see at least Col 14, lines 4 – 18 and lines 35 - 45). Moreover, the incentive price (i.e. discounts) varies between buyers for customized bundles and therefore is password protected as taught by Henson.

Applicant argues that "incentive pricing" was not well known in the art and therefore has demanded a reference.

Please see above rejection for reference.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art is Bennett (US 2001/0039516 A1), which discloses incentive price and McCormick (US 2002/0040352 A1), which discloses customized bundles (see at least Para 406 – 409).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Rob Rhode** whose telephone number is **(703) 305-8230**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **(703) 308-1344**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703) 308-1113**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450


Or faxed to:

(703) 872-9306 [Official communications; including
After Final communications labeled
"Box AF"]

(703) 746-7418 [Informal/Draft communications, labeled
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal
Drive, Arlington, VA, and 7th floor receptionist.

RER


Jeffrey A. Smith
Primary Examiner